

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

DEBBIE PINNEY,	)	
	)	
Plaintiff,	)	Cause No:
	)	
v.	)	<b><u>JURY TRIAL DEMANDED</u></b>
	)	
PROGRESSIVE NORTHERN	)	
INSURANCE COMPANY and	)	
AMERICAN FAMILY MUTUAL	)	
INSURANCE COMPANY, S.I.,	)	Circuit Court Cause No: 2022-CC09653
	)	
Defendants.	)	

**DEFENDANT’S NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. Sections 1332, 1441, and 1446, Defendant American Family Mutual Insurance Company, S.I. (“American Family”), by and through its undersigned attorney, hereby removes this action from the Circuit Court of the City of St. Louis, State of Missouri, to the United States District Court for the Eastern District of Missouri. In support of this Notice, American Family states as follows:

1. On or about September 11, 2020, Defendant received a copy of Plaintiff’s Petition filed in the Circuit Court of the City of St. Louis, State of Missouri, in the civil case styled *Debbie Pinney, Plaintiff v. Progressive North Insurance Company and American Family Mutual Insurance Company, S.I., Defendants*, Cause No. 2022-CC09653, seeking to recover on a breach of contract (Counts I and IV), Vexatious Conduct Under 215 ILCS 5/155 (Counts II and V) and Vexatious Refusal to Pay Under Mo. Rev. Stat. 375.420 (Counts III and VI). (See return filed of Summons in Civil Case expressing service dated September 11, 2020 on State of Missouri, Department of Insurance, Financial Institutions and Professional Regulation contained in the attached “Exhibit A”.)

2. Pursuant to 28 U.S.C. Sections 1446(a) and E.D. Mo. L.R. 2.03, a copy of all process, pleadings, orders and other documents now on file in the state court is attached hereto as “Exhibit A”.

3. As described below, this Court has diversity jurisdiction over this civil action.

4. This case is properly removed to this Court pursuant to 28 U.S.C. sections 1332 and 1441, because it is a civil action wherein the amount in controversy exceeds the sum of \$75,000, exclusive of costs and interest, and it is between citizens of different States.

5. Plaintiff is a citizen of the State of Illinois, Progressive Northern Insurance Company is a foreign insurance company incorporated in Ohio with its principal place of business in the State of Ohio, and American Family is a foreign insurance company incorporated in Wisconsin and with its principal place of business in the State of Wisconsin.

6. This Notice of Removal is timely filed. American Family received a copy of the Plaintiff’s Petition on September 11, 2020. *See* Exhibit A. This Notice of Removal is filed within thirty (30) days after receipt by American Family of this “initial pleading against it setting forth the claim for relief upon which such action or proceeding is based,” pursuant to 28 U.S.C. Section 1446(b).

7. This action is being removed to the District Court of the United States for the district embracing the place where the action is pending. 28 U.S.C. Section 1441(a).

8. The amount in controversy is satisfied based upon the allegations in Plaintiff’s Petition. Specifically, Plaintiff alleges, among other injuries and damage, that “Plaintiff sustained bodily injuries both temporary and permanent to her including but not limited to cuts and abrasions to her body as a whole; back and neck pain; left elbow foreign body, pain, scar contracture, and bursitis in addition to multiple medical procedures to address same....” Plaintiff further alleges past and future medical care and treatment and expenses, and past lost wages. Defendant American Family’s underinsured motorist coverage policy limit is \$100,000.00,

subject to the terms, conditions and exclusions contained in the insuring agreement, and Plaintiff has alleged she has made demand for American Family to pay her compensation “in accordance with the terms of the American Family Policy,” and that she is entitled to recovery up to the full amount of the underinsured motorist coverage policy limit. Plaintiff alleges Progressive North Insurance Company provides underinsured motorist coverage to Plaintiff, and Plaintiff alleges the same injuries and damages as against Progressive North Insurance Company as she does against American Family, including but not limited to multiple medical procedures and future medical care and treatment. Plaintiff further alleges she is entitled to penalties, costs and attorneys’ fees against each of the Defendants, pursuant to either 225 ILCS 5/155 and/or Mo. Rev. Stat. 375.420, for vexatious conduct on behalf of both Defendants. *See* Exhibit A, Plaintiff’s Petition.

9. Because Plaintiff is suing American Family as an insured under the subject policy and is suing Progressive North Insurance Company under the subject policy, this matter is not a “direct action” within the meaning of 28 U.S.C. Section 1332(c). *Anders v Zurich Am. Ins. Co.*, Case No.: 4:1 CV 1803 RWS (E.D. Mo Dec. 17, 2015); *Niesman v. Cincinnati Ins. Co.*, 2006 WL 27213 (E.D. Mo. Jan. 5, 2006); *Chinnock v. Safeco Nat’l. Ins. Co.*, 2010 WL 2803056 (W.D. Mo. July 15, 2010).

10. American Family will give Plaintiff written notice of the filing of this Notice of Removal and shall file written notice of the filing of his Notice of Removal with the Circuit Court of the City of St. Louis, State of Missouri, attaching a copy of this Notice of Removal.

**WHEREFORE**, American Family Mutual Insurance Company, S.I. herein gives notice that the matter styled as *Debbie Pinney, Plaintiff v. Progressive Northern Insurance Company and American Family Mutual Insurance Company, S.I., Defendants*, Cause No. 2022-CC09653, filed in the Circuit Court of the City of St. Louis, State of Missouri, is removed to the United States District Court for the Eastern District of Missouri.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 9<sup>th</sup> day of October, 2020, this document was electronically filed through the Court's e-file system and a true and accurate copy of the foregoing document was sent via electronic mail and U.S. Mail to:

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